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SENATE

{ REPORT
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FALLEN TIMBERS BATTLEFIELD AND FORT MIAMIS NATIONAL HISTORICAL SITE ACT

JUNE 7, 1999.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

REPORT

[To accompany S. 548]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 548) to establish the Fallen Timbers Battlefield and Fort Miamis National Historical Site in the State of Ohio, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fallen Timbers Battlefield and Fort Miamis National Historic Site Act of 1999”.

SEC. 2. DEFINITIONS.

As used in this Act:

(a) DEFINITIONS.—

(1) The term “historic site” means the Fallen Timbers Battlefield and Monument and Fort Miamis National Historic Site established by section 4 of this Act.

(2) The term “management plan” means the general management plan developed pursuant to section 5(d).

(3) The term “Secretary” means the Secretary of the Interior.

(4) The term “management entity” means one representative from each of the following organizations:

(A) The Ohio Historical Society;

(B) The City of Maumee;

(C) The Maumee Valley Heritage Corridor;

(D) The Fallen Timbers Battlefield Preservation Commission,

(E) Heidelberg College;

(F) The City of Toledo;

(G) The Metropark District of the Toledo Area; and

(H) any other 2 organizations designated by the Governor of Ohio.

(5) The term “technical assistance” means any guidance, advice, or other aid, other than financial assistance, provided by the Secretary.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) the 185-acre Fallen Timbers Battlefield is the site of the 1794 battle between General Anthony Wayne and a confederation of Native American tribes led by Little Turtle and Blue Jacket;

(2) Fort Miamis was occupied by General Wayne’s legion from 1796 to 1798;

(3) in the spring of 1813, British troops, led by General Henry Proctor, landed at Fort Miamis and attacked the fort twice, without success;

(4) Fort Miamis and Fallen Timbers Battlefield are in Lucas County, Ohio, in the city of Maumee;

(5) the 9-acre Fallen Timbers Battlefield Monument is listed as a National Historic Landmark;

(6) Fort Miamis is listed in the National Register of Historic Places as a historic site;

(7) in 1959, the Fallen Timbers Battlefield was included in the National Survey of Historic Sites and Buildings as 1 of 22 sites representing the “Advance of the Frontier, 1763–1830”; and

(8) in 1960, the Fallen Timbers Battlefield was designated as a National Historic Landmark.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize and preserve the 185-acre Fallen Timbers Battlefield site;

(2) to recognize and preserve the Fort Miamis site;

(3) to formalize the linkage of the Fallen Timbers Battlefield and Monument to Fort Miamis;

(4) to preserve and interpret United States military history and Native American culture during the period from 1794 through 1813.

(5) to provide assistance to the State of Ohio, political subdivisions of the State, and nonprofit organizations in the State to implement the management plan and develop programs that will preserve and interpret the historical, cultural, natural, recreational and scenic resources of the historic site; and

(6) to authorize the Secretary to provide technical assistance to the State of Ohio, political subdivisions of the State, and nonprofit organizations in the State, including the Ohio Historical Society, the city of Maumee, the Maumee Valley Heritage Corridor, the Fallen Timbers Battlefield Commission, Heidelberg College, the city of Toledo, and the Metropark District of the Toledo Area, to implement the management plan.

SEC. 4. ESTABLISHMENT OF THE FALLEN TIMBERS BATTLEFIELD AND FORT MIAMIS NATIONAL HISTORIC SITE.

(a) IN GENERAL.—There is established, as an affiliated area of the National Park System, the Fallen Timbers Battlefield and Fort Miamis National Historic Site in the State of Ohio.

(b) DESCRIPTION.—The historic site is comprised of the following as generally depicted on the map entitled Fallen Timbers Battlefield and Fort Miamis National Historical Site-proposed, numbered NHS–FTFM, and dated May 1999:

(1) The Fallen Timbers site, comprised generally of the following:

(A) The Fallen Timbers Battlefield site, consisting of an approximately 185-acre parcel located north of U.S. 24, west of U.S. 23/I–475, south of the Norfolk and Western Railroad line, and east of Jerome Road.

(B) The approximately 9-acre Fallen Timbers Battlefield Monument, located south of U.S. 24; and

(2) The Fort Miamis Park site.

(c) MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. ADMINISTRATION OF HISTORIC SITES.

(a) APPLICABILITY OF NATIONAL PARK SYSTEM LAWS.—The historic site shall be administered in a manner consistent with this Act and all laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (16 U.S.C. 1, 2–4; commonly known as the National Park Service Organic Act), and the Act of August 21, 1935 (16 U.S.C. 461 et seq.; commonly known as the Historic Sites, Buildings, and Antiquities Act).

(b) COOPERATIVE AGREEMENT.—The Secretary may enter into a cooperative agreement with the management entity to provide technical assistance to ensure the marking, research, interpretation, education and preservation of the Fallen Timbers Battlefield and Fort Miamis National Historic Site.

(c) REIMBURSEMENT.—Any payment made by the Secretary pursuant to this section shall be subject to an agreement that conversion, use or disposal of the project so assisted for purposes contrary to the purposes of this section as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use or disposal, whichever is greater.

(d) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary, in consultation with the management entity and Native American tribes whose ancestors were involved in events at these sites, shall develop a general management plan for the historic site. The plan shall be prepared in accordance with section 12(b) of Public Law 91–383 (16 U.S.C. 1a–1 et seq.; commonly known as the National Park System General Authorities Act).

(2) COMPLETION.—The plan shall be completed not later than 2 years after the date funds are made available.

(3) TRANSMITTAL.—Not later than 30 days after completion of the plan, the Secretary shall provide a copy of the plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such funds as are necessary to carry out this Act.

PURPOSE OF THE MEASURE

The purpose of S. 548, as ordered reported, is to establish the Fallen Timbers Battlefield and Fort Miamis National Historical Site in Ohio as an affiliated area of the National Park System.

BACKGROUND AND NEED

The Battle of Fallen Timbers occurred in 1794 between the U.S. Army, led by General “Mad” Anthony Wayne, and a confederation of Native American tribes led by Shawnee Chief Tecumseh, Little Turtle and Blue Jacket. The battle secured Ohio and the Northwest Territory for U.S. settlement.

In 1959 the site of the Battle of Fallen Timbers, in the city of Maumee, Ohio, was included in the National Survey of Historic Sites and Buildings and was designated a National Historic Landmark in 1960. Fallen Timbers State Memorial is a nine-acre site owned by the Ohio Historical Society and managed by the Metropolitan Park District of the Toledo Area (Metroparks). In 1995 the National Park Service was asked by the city of Maumee and the Maumee Valley Heritage Corridor, Inc. to conduct a special resources study of the Fallen Timbers Battlefield Site. However, because of local pressures, Park Service management of the area was not considered. The 1998 study found that the Fallen Timbers Battlefield Site meets the criteria for an affiliated area.

Fort Miamis, which was occupied by General Wayne’s troops from 1796 to 1798, is listed on the National Register of Historic Places. It was also the site of a battle in the War of 1812. This legislation would formally link Fort Miamis to the Battle of Fallen Timbers Battlefield Site.

LEGISLATIVE HISTORY

S. 548 was introduced by Senator DeWine on March 4, 1999. The Subcommittee on National Parks, Historic Preservation and Recreation held a hearing on S. 548 on April 22, 1999. Similar legislation

was also sponsored by Senator DeWine in the 105th and 104th Congresses, although no action was taken on either bill.

At its business meeting on May 19, 1999, the Committee on Energy and Natural Resources ordered S. 548, favorably reported, as amended.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on May 19, 1999, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 548, as amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 548, the Committee adopted an amendment in the nature of a substitute.

In addition to making several technical, clarifying and conforming changes, the amendment provides that the site should be managed as an affiliated area of the National Park System, in accordance with the principles set forth by the National Park Service. The amendment also lays out the goals and responsibilities of the management entity, including the development and submission of a general management plan for the historic site. In addition, the amendment requires that any payment made by the Secretary shall be subject to an agreement that conversion, use or disposal of the project contrary to the purposes of the Act shall give the United States the opportunity to seek reimbursement for expenditures made by the United States on the projects behalf.

The amendment is explained in detail in the section-by-section analysis, below.

SECTION-BY-SECTION ANALYSIS

Section 1 designates the bill's short title as the "Fallen Timbers Battlefield and Fort Miamis National Historic Site Act of 1999".

Section 2 defines terms used in the bill.

Section 3 contains Congressional findings and purposes. The purposes are to recognize and preserve the 185-acre Fallen Timbers battlefield site; recognize and preserve the Fort Miamis site; formally link Fallen Timbers Battlefield and Monument to Fort Miamis; preserve and interpret U.S. military history and Native American culture between 1794 and 1813; to provide assistance to the State of Ohio, its political subdivisions and to a number of non-profit organizations; authorize the Secretary to provide technical assistance to the State of Ohio, political subdivisions of the State, and non-profit organizations (as listed in section 2).

Section 4 (a) establishes the Fallen Timbers Battlefield and Fort Miamis National Historical Site as an affiliated area of the National Park System.

Subsection (b) describes the historic site, to include the 185-acre Fallen Timbers Battlefield site, the nine acre Fallen Timbers Battlefield Monument and the Fort Miamis Park site as depicted on map numbered NHS-FTFM dated May 1999.

Subsection (c) requires a map to be made available for public inspection in appropriate offices of the National Park Service.

Section 5 (a) mandates the historic site is to be administered in a manner consistent with this Act and all laws applicable to units of the National Park System, with specific reference to the Organic Act of August 25, 1916 (U.S.C. 1, 2–4) and the Historic Sites, Buildings and Antiquities Act of August 21, 1935 (16 U.S.C. 461 et seq.).

Subsection (b) allows the Secretary to enter into cooperative agreements with the management entity to provide technical assistance to ensure the marking, research, interpretation, education and preservation of Fallen Timbers Battlefield and Fort Miamis National Historic Site.

Subsection (c) requires an agreement that any payment made by the Secretary pursuant to this section, must provide that any conversion, use or disposal of the project in a manner contrary to battlefields purposes as determined by the Secretary, shall result in the right of the United States to seek reimbursement of all funds made available for such project or a proportion of the increased value attributable to such funds as determined at the time of such conversion, use or disposal, whichever is greater.

Subsection (d) directs the Secretary to develop a general management plan in consultation with the management entity and Native American tribes whose ancestors were involved in events at these sites. It is to be developed in accordance with Section 12(b) of Public Law 91–383 (16 U.S.C. 1a–1 et seq.). The plan is to be completed within 2 years after funds are made available. Within 30 days of its completion, copies are to be provided to the Senate Committee on Energy and Natural Resources and the House of Representatives Committee on Resources.

Section 6 authorizes funds necessary to carry out this Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 25, 1999.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 548, the Fallen Timbers Battlefield and Fort Miamis National Historic Site Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 548—Fallen Timbers Battlefield and Fort Miamis National Historic Site Act of 1999

CBO estimates that implementing S. 548 would cost about \$200,000 over the next two years, assuming appropriation of the necessary amounts. The bill would establish the Fallen Timbers Battlefield and Fort Miamis National Historic Site as an affiliated area of the National Park System. The site would be administered by a designated management entity described in the bill as a group of local government agencies and nonprofit organizations. The bill would require the National Park Service (NPS) to develop a general management plan for the site and would authorize the agency to execute a cooperative agreement with the management entity to provide federal technical assistance for site preservation and other activities. Finally, S. 548 would authorize the appropriation of whatever sums are necessary to implement the legislation.

Based on information provided by the NPS and assuming appropriation of the necessary amounts, CBO estimates that developing the management plan required by S. 548 would cost the NPS about \$200,000 over the next two years. During that period and possibly for several years thereafter, the NPS also would provide the management entity with technical assistance on preserving and interpreting the site and other activities related to implementing the management plan. CBO estimates that the cost of providing such assistance would be negligible.

S. 548 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. State and local governments might incur some costs as a result of the bill's enactment, but these costs would be voluntary.

The CBO staff contact is Deborah Reis. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 548. The bill is not a regulatory measure in the sense of imposing Government-established standards of significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from enactment of S. 548, as ordered reported.

EXECUTIVE COMMUNICATIONS

At the Subcommittee hearing a representative from the National Park Service testified that the Department of the Interior could not support S. 548 in its present form. The Department's testimony follows:

STATEMENT OF KATHERINE STEVENSON, ASSOCIATE DIRECTOR FOR CULTURAL RESOURCES, STEWARDSHIP, AND PARTNERSHIP, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 548, a bill to establish the Fallen Timbers Battlefield and Fort Miamis National Historical Site in the State of Ohio.

Although the Battle of Fallen Timbers site is a National Historic Landmark and Fort Miamis played a significant role in the conflict, the Department cannot support this bill in its present form. While we support the intent of S. 548, which is to preserve and link these two important sites, we do not believe that this bill, as currently written, provides the proper protection for the long-term preservation of these sites. We believe this legislation does not achieve the bill's purpose to preserve these important historical areas, nor does it provide the standards necessary for the areas to meet the National Park Service's criteria for affiliated recognition.

The Battle of Fallen Timbers is a notable event in our nation's history. One of the four major engagements during the "Indian Wars" period, 1790–1795, Battle of Fallen Timbers is generally regarded as one of the most significant U.S. military actions in the period between the Revolution and the War of 1812. The defeat of the Native American Confederacy, which was led by Michikinikwa and Weyapiersenwah (Blue Jacket), by General Anthony Wayne led to the Greeneville Treaty which secured Ohio and the Northwest Territory for U.S. settlement.

S. 548 seeks to recognize, preserve, interpret, and link Fort Miamis and the Battle of Fallen Timbers. It also authorizes the Secretary of the Interior to provide technical assistance to the State of Ohio, its political subdivisions and non-profit organizations in the State to develop and implement a management plan to preserve and interpret the historical, cultural, natural, recreational, and scenic resources of these sites.

An affiliated area within the National Park Service System must meet three specific criteria. These criteria include the need for some special recognition or technical assistance beyond what is available through existing NPS programs, a cooperative arrangement with NPS and documentation that contributions from other sources will be adequate to assure long-term protection of the resource, and the ability to establish and continue a standard of maintenance, operations, public service and financial accountability consistent with requirements applicable to National Park System units.

While the bill recognizes a management entity including the state, its political subdivisions, non-profit organizations and any other entity designated by the Governor of Ohio, it does not provide the proposed management entity

with the proper standards to ensure that Fallen Timbers and Fort Miamis is maintained as an affiliated site.

It is the opinion of the department that omission militates against long-term preservation of the sites and jeopardizes any federal investment of technical or funding assistance that may be provided. Affiliated sites should, at the very least, meet the principals set forth by the National Park Service. In fact, the bill seems to anticipate the lack of long-term preservation by including a section that outlines procedures for withdrawal of the National Historic Site designation. If the use, condition, or development of the site is incompatible with the purposes of this proposed act or if the management entity has not made reasonable and appropriate progress in the development and implementation of the management plan, the bill provides the Secretary the authority to withdraw the historical site designation.

As previously stated, these sites are worthy of protection and preservation, and the National Park Service supports the intent to protect and preserve these sites. However, the success of affiliated areas depends upon the stability and strength of the management entity. As currently written, the bill does not support the development of a management entity that will be able to meet the long-term protection requirements of Fallen Timbers and Fort Miamis. The National Park Service recommends in this regard that Section 5 be deleted. In addition, we recommend that Section 6(a)(1)(B), and Section 7 (b) and (c) be struck from the bill because they are unnecessary in light of the advisory nature of the management entity.

In addition, the current bill does not provide for the proper protection of federal resources that may be invested in Fallen Timbers and Fort Miamis as an affiliated site. The National Park Service recommends that a section be added to the bill that would lay out the goals and responsibilities of the management entity, including the development and submission of a general management plan for the historical site. The management plan should include recommendations, developed in consultation with Indian tribes whose ancestors were involved in events at these sites, on the conservation, acquisition, funding, management, development and interpretation of the sites. The plan should also take into consideration existing federal, state, county and local development plans, as well as involve residents, public agencies and private organizations.

S. 548 requires the Secretary to provide technical assistance beyond what is currently available through existing programs, and regardless of established NPS criteria. Instead, the bill should include a provision to authorize the NPS to enter into a cooperative agreement with the management entity to provide technical assistance and to support the management entity in developing a general management plan for the areas. In addition, the Secretary should not be limited by the management entity's rec-

ommendation in determining who may receive technical assistance. Such a limitation would raise serious constitutional concerns under the Appointments Clause. The National Park Service also recommends that a provision that authorizes the necessary appropriations be included in this bill. Additionally, if the management entity fails to carry out the plan or fails to meet the standards established for affiliated areas, then language should be provided to insure that the federal government can recover any funds expended.

The National Park Service supports the intent of protecting and preserving the Fallen Timbers Battlefield and Fort Miamis. However, in addition to the above recommendations, there are additional minor technical and clarifying amendments that also need to be included before NPS can support this measure. The National Park Service is willing to work with Senator DeWine and the subcommittee to resolve these issues and to amend the bill to develop an acceptable measure.

Mr. Chairman, thank you for the opportunity to share with the Subcommittee the department's position on S. 548. This concludes my formal remarks. I will be pleased to answer any questions you or other members of the subcommittee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 548, as ordered reported.

